

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES M. LEDAKIS
Supervising Deputy Attorney General

3 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General

4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2091
Facsimile: (619) 645-2061

8 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **JEROME CONCEPCION MARCOS**
521 Virginia Avenue, Apt. A
15 Ontario, CA 91764

16 RN License No. 501780
Nurse Practitioner License No. 11862
17 Nurse Practitioner Furnishing License No. 11862

18 Respondent.

Case No. 2007-299
OAH No. 2008050728

**FIRST AMENDED
ACCUSATION**

19
20 Complainant alleges:

21 **PARTIES**

22 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and files this First
23 Amended Accusation in her official capacity as Executive Officer, Board of Registered Nursing,
24 Department of Consumer Affairs. This First Amended Accusation supersedes and replaces *nunc*
25 *pro tunc*, the Accusation heretofore filed.

26 2. On or about July 6, 1994, the Board of Registered Nursing (Board) issued
27 Registered Nursing license number 501780 to Jerome Concepcion Marcos (Respondent). Said
28 license will expire on November 30, 2009, unless renewed.

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2 3. On or about August 7, 2000, the Board issued Nurse Practitioner license
3 number 11862 to Respondent.

4 4. On or about November 20, 2001, the Board issued Nurse Practitioner
5 Furnishing license number 11862 to Respondent.

6 **JURISDICTION**

7 5. This Accusation is brought before the Board of Registered Nursing
8 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
9 references are to the Business and Professions Code unless otherwise indicated.

10 6. Business and Professions Code section 2761, entitled Grounds for
11 Discipline, evidence of conviction states in pertinent part:

12 The Board may take disciplinary action against a certified or licensed
13 nurse or deny an application for a certificate or license for any of the following:

14 a) Unprofessional conduct, which includes, but is not limited to, the
15 following:

16 f) Conviction of a felony or of any offense substantially related to the
17 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

18 7. Business and Professions Code section 2762 states in pertinent part:

19 In addition to other acts constituting unprofessional conduct within the
20 meaning of this chapter it is unprofessional conduct for a person licensed under
this chapter to do any of the following:

21 (a) Obtain or possess in violation of law, or prescribe, or except as directed
22 by a licensed physician and surgeon, dentist, or podiatrist administer to himself or
herself, or furnish or administer to another, any controlled substance as defined in
23 Division 10 (commencing with Section 11000) of the Health and Safety Code or
any dangerous drug or dangerous device as defined in Section 4022.

24 (b) Use any controlled substance as defined in Division 10 (commencing
25 with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
26 or in a manner dangerous or injurious to himself or herself, any other person, or
the public or to the extent that such use impairs his or her ability to conduct with
27 safety to the public the practice authorized by his or her license.

28 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in

1 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
2 record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

3 (d) Be committed or confined by a court of competent jurisdiction for
4 intemperate use of or addiction to the use of any of the substances described in
5 subdivisions (a) and (b) of this section, in which event the court order of
commitment or confinement is prima facie evidence of such commitment or
confinement.

6 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
7 request the administrative law judge to direct a licensee found to have committed a violation or
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
9 and enforcement of the case.

10 9. California Code of Regulations, title 16, section 1444 states, in pertinent
11 part:

12 A conviction or act shall be considered to be substantially
13 related to the qualifications, functions or duties of a registered nurse
14 if to a substantial degree it evidences the present or potential unfitness
of a registered nurse to practice in a manner consistent with the public
health, safety, or welfare.

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16 **Alleged Facts:**

17 **October 25, 2004 Conviction for DUI and Possession of Controlled Substances**

18 10. On July 25, 2004, Jerome Concepcion Marcos, hereinafter Respondent,
19 was charged in a four count complaint in Orange County Superior Court Case No. 04HF1232 as
20 follows: **Count 1** for violating Health and Safety Code section 11350 (a), Possession of a
21 controlled substance, Hydrocodone; **Count 2** for violating Vehicle Code section 23152 (a) for
22 driving under the influence of alcohol/drugs; **Count 3** for violating Health and Safety Code
23 section 11375 (b)(2), possession of a designated substance, Diazepam; and **Count 4** for violating
24 Health and Safety Code section 11375 (b)(2), possession of a designated substance, Clonazepam.
25 Respondent's arrest arose out of an incident that occurred on July 25, 2004 at 0819 hours on
26 Jamboree and Bayview Drive wherein Respondent had passed out and was slumped over his
27 steering wheel while the car was idling in the lanes of traffic. An officer responded to the
28 incident and awoke Respondent. The officer suspected that Respondent was under the influence

1 and requested that Respondent perform a field sobriety test which he did poorly. Respondent
2 refused the officers request for a chemical test to determine his sobriety. The officer performed a
3 search of Respondent's car incidental to his arrest and discovered pills identified as Klonopin,
4 Vicodin, Diazepam and Hydrocodone, along with a glass pipe used to smoke methamphetamine.

5 11. On October 25, 2004, Respondent pled guilty to all four counts. As part of
6 his plea agreement, Respondent admitted to driving his motor vehicle while under the influence
7 of prescription drugs and passed out behind the wheel of his car. Further, Respondent admitted
8 to possession of a useable amount of Hydrocodone, Diazepam and Clonazepam without a
9 prescription. Respondent pled guilty to Counts 1, 3, and 4, the entry of judgment was deferred
10 and Respondent was ordered to enroll in a Drug Program pursuant to Penal Code section 1000.
11 Upon successful completion of drug treatment, the charges would be dismissed. As to Count 2,
12 driving under the influence, Respondent pled guilty and was sentenced to three years probation,
13 pay a fine of \$390, pay restitution of \$100, attend and complete a three month Level 1 First
14 Offender Alcohol Program, not drive a car with a measurable amount of alcohol or drugs in his
15 system, serve 10 days in Orange County Jail.

16 FIRST CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct for Possession of Controlled Substances)

18 12. Respondent is subject to disciplinary action under section 2761(a) and (f)
19 in that Respondent was convicted of felony possession of controlled substances and for driving
20 under the influence of drugs, which are substantially related to his qualifications, functions, and
21 duties of a registered nurse as set forth in paragraphs 10 and 11, above.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct for Possession of Controlled Substances)

24 13. Respondent is subject to disciplinary action under section 2762 (a) for
25 obtaining or possessing controlled substances as set forth in paragraphs 10 and 11, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct for Possession of Controlled Substances)**

3 14. Respondent is subject to disciplinary action under section 2762 (b) for use
4 of controlled substances, or an alcoholic beverage in a manner injurious on oneself as set forth in
5 paragraphs 10 and 11, above.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct for Possession of Controlled Substances)**

8 15. Respondent is subject to disciplinary action under section 2762 (c) for
9 being convicted of a criminal offense involving a prescription, consumption, or self-
10 administration of a controlled substance as set forth in paragraphs 10 and 11, above.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct for Possession of Controlled Substances)**

13 16. Respondent is subject to disciplinary action under section 2762 (d) for
14 being committed or confined by a court of competent jurisdiction for intemperate use of or
15 addiction to controlled substances as set forth in paragraphs 10 and 11, above.

16 **Alleged Facts:**

17 **Respondent's Conviction for Possession of Methamphetamine on 8-21-2006**

18 17. On January 1, 2006, at 2140 hours, the Riverside County Sheriff's Office
19 observed Respondent sleeping in the front seat of a red Nissan pick up truck in a disabled parking
20 space in Cabazon, California. Respondent's truck did not have a disabled plate nor was
21 Respondent disabled. The officer asked Respondent if he had anything illegal in his possession
22 and Respondent replied, "no." The officer asked Respondent if he could search his pick up and
23 Respondent answered, "yes." Prior to his vehicle's search, Respondent was placed in the back
24 seat of the patrol car for officer safety. During the search, the officer found a glass
25 methamphetamine pipe lying on the center console and a metal container with white residue.
26 Unable to locate any methamphetamine in Respondent's car the officer returned to the patrol car
27 and searched Respondent. Thereafter, the officer checked the back seat of his patrol car where
28 Respondent had been seated and the officer found a clear plastic bag of methamphetamine.

1 On August 21, 2006, Respondent pled guilty in Riverside Superior Court Case No. BAF004630
2 for a felony violation of Health & Safety Code section 11377(a) possession of methamphetamine.
3 As part of his criminal sentence, Respondent was placed on three years probation, ordered to
4 complete a substance abuse program pursuant to Penal Code section 1210.1 and pay fines and
5 restitution.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct for Possession of Controlled Substances)**

8 18. Respondent is subject to disciplinary action under section 2761(a) and (f)
9 in that Respondent was convicted of felony possession of methamphetamine which is
10 substantially related to his qualifications, functions, and duties of a registered nurse as set forth in
11 paragraph 17, above.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct for Possession of Controlled Substances)**

14 19. Respondent is subject to disciplinary action under section 2762 (a) for
15 obtaining or possessing controlled substances as set forth in paragraph 17, above.

16 **Alleged Facts:**

17 **Respondent's Conviction for Possession of Methamphetamine on 9-24-06**

18 20. On or about March 1, 2007, Respondent was arrested by Los Angeles
19 Police Department officers for possession of a controlled substance.

20 21. On or about September 24, 2007, in *People of the State of California v.*
21 *Jerome Marcos*, Los Angeles County Superior Court Case No. LA 05505101, Respondent pled
22 guilty to possession of controlled substances (Health & Safety Code section 11377(a), a felony,
23 Ct. 1). He was immediately sentenced on September 24, 2007, and placed on formal probation
24 for three (3) years. Probation conditions included, but was not limited, to payment of fines and
25 fees; not possessing or using narcotics or dangerous drugs without a valid prescription; not
26 associating with persons known to him to be narcotic users, sellers, or buyers; drug testing;
27 waiver of his 4th Amendment rights to search and seizure; registration as a narcotic offender; and
28 participation in substance abuse counseling.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct for Possession of Controlled Substances)**

3 22. Respondent is subject to disciplinary action under section 2761(a) and (f)
4 in that Respondent was convicted of felony possession of methamphetamine which is
5 substantially related to his qualifications, functions, and duties of a registered nurse as set forth in
6 paragraphs 20 and 21, above.

7 **NINTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct for Possession of Controlled Substances)**

9 23. Respondent is subject to disciplinary action under section 2762 (a) for
10 obtaining or possessing controlled substances as set forth in paragraph 20 and 21, above.

11 **Alleged Facts:**

12 **Respondent's Conviction for Possession of Methamphetamine on 2-20-08**

13 24. On or about April 24, 2007, at approximately 2:47 a.m., Respondent was
14 stopped by an officer of the San Bernardino County Sheriff's Office for not stopping his vehicle
15 behind the limit line. Respondent presented the officer with a California identification card,
16 stating that his license was suspended. The officer conducted a pat-down search of Respondent,
17 where a glass narcotic smoking pipe was discovered in Respondent's right pant leg. A clear
18 plastic baggie containing methamphetamine was concealed in Respondent's right sock.
19 Respondent was arrested and transported to the West Valley Detention Center.

20 25. On February 20, 2008, in *People of the State of California v. Jerome*
21 *Concepcion Marcos*, Respondent pled guilty to possession of methamphetamine (Health &
22 Safety Code section 11377(a), Ct. 1). Count 2 (Driving while license suspended, Vehicle Code
23 section 14601.2) was dismissed in the furtherance of justice. Respondent was immediately
24 sentenced on February 20, 2008. Probation was denied and Respondent received credit for 32
25 days served in the County Jail. He was ordered to pay \$100 for attorney's fees.

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1 PRAYER

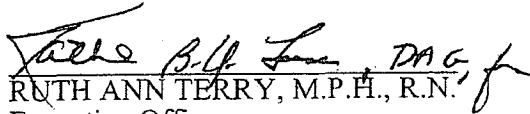
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nursing License number 50780; Nurse
5 Practitioner License No. 11862 and Nurse Practitioner Furnishing License No. 11862 issued to
6 Jerome Concepcion Marcos;

7 2. Ordering Jerome Concepcion Marcos to pay the Board of Registered
8 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 125.3; and

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 8/29/08

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13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California

19 Complainant

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